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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,248	09/08/2003	Brent Marsh	370499	4126
33721	7590	08/09/2005	EXAMINER	
TORYS LLP			COLON, GERMAN	
79 WELLINGTON ST. WEST			ART UNIT	PAPER NUMBER
SUITE 3000			2879	
TORONTO, ON M5K 1N2			DATE MAILED: 08/09/2005	
CANADA				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/658,248	MARSH, BRENT	
	Examiner	Art Unit	
	German Colón	2879	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-12 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 08 September 2003 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3, 5-6 and 8-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Mikol et al. (US 5,493,167).

Regarding claims 1 and 6, Mikol discloses a protected lamp assembly, comprising (see Figs. 1-2):

a tubular lamp element **12** having energizing electrodes **26** adapted to be coupled to a source of electrical energy;

a protective housing element **13** surrounding said lamp element and substantially coextensive therewith;

a resilient lamp support members **30,31** for holding said lamp element within said protective housing element spaced apart from the interior surfaces thereof; and

conductive means **32,33** for coupling said electrodes **26** to a source of energy exterior to said protective housing.

Regarding claims 2 and 3, Mikol discloses end cap means (portion **34** of **30,31**) mounted at the ends of said protective housing element, said lamp support member and cap means being integral (see Fig. 3 in view of Figs. 1 and 2; see also Col. 5, lines 13-16).

Regarding claim 5, Mikol discloses said conductive means including a conductor **32** extending from one of the energizing electrodes (upper electrode in Fig. 2) to and through the end cap **31** at the opposite end of the lamp.

Referring to claims 8-10, the claims are rejected for the reasons given in the rejection of claims 1-3.

Referring to claim 11, the claim is rejected for the reasons given in claim 5.

3. Claims 1-3, 6 and 8-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Shanks (US 3,358,167).

Referring to claims 1 and 6, Shanks discloses a protected lamp assembly, comprising (see Figs. 1-2):

a tubular lamp element **11** having energizing electrodes **15** adapted to be coupled to a source of electrical energy;

a protective housing element **12** surrounding said lamp element and substantially coextensive therewith;

a resilient lamp support members **19** for holding said lamp element within said protective housing element spaced apart from the interior surfaces thereof; and

conductive means **32** for coupling said electrodes **15** to a source of energy exterior to said protective housing.

Referring to claims 2 and 3, Shanks discloses end cap means **21** mounted at the ends of said protective housing element, said lamp support member **20** and cap means **21** being integral. The Examiner notes that integral is not limited to being formed of a same material, but includes a plurality of parts that act as a single unit **19**.

In regards to claims 8-10, the claims are rejected for the reasons given in the rejection of claims 1-3.

4. Claims 6-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Blaisdell et al. (US 4,990,821).

In regards to claim 6, Blaisdell discloses a protected lamp assembly, comprising (see Fig. 4):

at least one tubular lamp element **102** having energizing electrodes (see Fig. 4 in view of Fig. 1) adapted to be coupled to a source of electrical energy;

a protective housing element **126** surrounding said lamp element and substantially coextensive therewith;

a resilient lamp support members **122,120** for holding said lamp element within said protective housing element spaced apart from the interior surfaces thereof; and

conductive means **134** for coupling said electrodes to a source of energy exterior to said protective housing.

In regards to claim 7, Blaisdell discloses:

a second tubular lamp element **104** (or **106**) having energizing electrodes (see Fig. 4 in view of Fig. 1) adapted to be coupled to a source of electrical energy;

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said protective housing element **126** surrounding said second lamp element and substantially coextensive therewith;

resilient lamp support members **122,120** for holding said lamp element within said protective housing element spaced apart from the interior surfaces thereof; and

conductive means **134** for coupling said electrodes to a source of energy exterior to said protective housing.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shanks (US 3,358,167).

Regarding claims 4 and 12, Shanks discloses the claimed inventions except for the limitation of "said conductive means including a conductive coating". However, it has been held to be within the general skill of an artisan to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. Thus, it would have been obvious to one having ordinary skills in the art at the time the invention was made to provide a conductive coating as the conductive means of Shanks, since the selection of known materials for a known purpose is within the skill of the art.

Prior Art of Record

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

US 5,416,676; US 5,140,216; US 4,449,071; and US 4,352,539 disclose a protected lamp unit.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to German Colón whose telephone number is 571-272-2451. The examiner can normally be reached on Monday thru Thursday, from 8:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimesh Patel can be reached on 571-272-2457. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KC
gc

Karabi Guharay
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PRIMARY EXAMINER